BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C.

In the Matter of	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service	)	
	)	

COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

The Public Service Commission of the State of Missouri ("MoPSC") offers the following comments in response to the Federal Communication Commission's ("FCC" or "Commission") February 26, 2003 public notice seeking comments on an FCC Staff study regarding alternative universal service fund contribution methodologies issued in the above docketed case. The Staff study incorporates a consistent set of assumptions to model the three approaches discussed in the FCC's Report and Order and Second Notice of Proposed Rulemaking issued on December 13, 2002 ("NPRM"). The Commission is seeking comments on the FCC Staff study and its underlying assumptions.

The Commission initiated the current proceeding in order to consider alternatives or modifications to the current revenue based universal service fund assessment mechanism. In its 1997 Universal Service Order the Commission decided to assess contributions on contributors' gross-billed end-user telecommunications revenues. The Commission concluded that such an assessment mechanism would be competitively neutral, easily administrable, and would eliminate some economic distortions associated with other mechanisms. The Commission declined to adopt a mandatory end-user surcharge because of a concern that mandating recovery through a mandatory surcharge might affect contributors' flexibility to offer bundled services or innovative pricing options. Instead, the Commission allowed contributors to decide for themselves how, and how much of their assessment, they would recover from customers, with the caveat that any charges be applied in a non-discriminatory manner and that contributors provide accurate, truthful, and complete information regarding the nature of the charge. [1]

In addition to the Commission's concerns that a mandatory surcharge may affect contributors' flexibility to offer bundled services or innovative pricing, the Commission also noted it had concerns that a mandatory end-user surcharge "would dictate how carriers recover their contribution obligations and would violate Congress's mandate."[2] However, the MoPSC asserts the current mechanism, provides confusion and uncertainty on behalf of the consumer. Since contributors are allowed to choose whether to recover the assessment through a line-item assessment, include the recovery in rates and bundles, or utilize a blended recovery approach, it becomes difficult for the consumer to effectively compare pricing among competitors. The MoPSC suggests the FCC revise its current philosophy to mandate that all contributors treat the recovery of the USF assessment in a consistent manner, whether it is through implicit innovative pricing options or through an explicit surcharge on end-users.

In response to the current proceeding, the MoPSC acknowledges there are other initiatives to address issues related to universal service funding and respectfully suggests that any action as a result of those initiatives may impact the assessment contribution methodologies discussed in these comments and the NPRM.

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[1] *Universal Service Order*, 12 FCC Rcd at 9206-11, paras. 843-853.
[2] Id. at 9210-11, para. 853.

The MoPSC urges the Commission to follow the principles that have guided its past decisions on these matters. Specifically, the Commission should ensure that any modifications to the current universal service fund assessment mechanism do not discriminate against any consumers or telecommunications providers, are competitively neutral, and are easily administered. The MoPSC asserts that a decision adhering closely to these principles will be consistent with the Telecommunications Act of 1996 ("the Act"), and will help to ensure a sustainable universal service fund that will balance the interests of both contributors and the general public.

The MoPSC is not in a position to comment on every aspect of the three proposals before the Commission. Further, the MoPSC does not have a position on general assumptions used in the Staff's studies. Thus, the MoPSC will comment on those aspects of each proposal it considers most important in maintaining the specific principles described in prior Commission orders and in these comments.

Through its December 13, 2002 Report and Order, the Commission made interim changes to the universal service fund collection methodology in order to promote competitive neutrality and to simplify the assessment and recovery mechanism for carriers and consumers. Essentially, instead of assessing contributions based upon revenues accrued as much as six (6) months prior, assessment contributions will now be based upon the carriers' projections of their collected end-user interstate and international telecommunications revenues for the following quarter. The MoPSC believes that this modification was appropriate and will result in less customer confusion and increased sustainability of the universal service fund in the future. As the telecommunications marketplace continues to evolve, such a mechanism will not penalize carriers whose revenues are already decreasing and will not provide any short-term windfall for any carrier who has managed to increase its revenue. The modified mechanism will result in carriers contributing for revenue they are receiving and not scrambling to cover their assessment from a declining revenue base. The MoPSC is not aware of any problems that might arise from such a modification and perceives only benefits over the current mechanism; therefore, the MoPSC recommends the interim measure, including the true-up mechanism as discussed in paragraph 36 of the NPRM, be made permanent if the Commission continues with a revenue-based assessment contribution.

In the NPRM, the Commission asked for general comments with respect to a connection-based methodology. Specifically the Commission asked for comments on how to ensure that a connection-based contribution methodology would be consistent with the Act. As the MoPSC has previously stated, any changes to the current contributions methodology should be made in a manner that is non-discriminatory, competitively neutral, and easily administrable. While a connection-based methodology may shift contribution assessments among providers, as long as the changes are made in a manner that is non-discriminatory and competitively neutral, the changes should be consistent with section 254(d)'s requirement that every provider of interstate telecommunications service contribute on an equitable basis. Applying these principles will result in a fund that carefully balances the needs of all participants and beneficiaries in order to provide the most benefit to society.

In order to successfully implement a connections-based methodology, the Commission needs to ensure that the guidelines for determining connections-based funding in general, as well as contribution assessments based on capacity, are clear, concise and easily applied. The MoPSC is not in a position to provide technical guidance on this issue, but without clear guidelines, this proposal has potential implications for the continued viability of the fund.

The Commission also asked for comment on whether or not a connections-based methodology should be utilized in determining contributions for Telecommunications Relay Service, Numbering Administration, Local Number Portability and wireline regulatory fee programs. The Missouri Telecommunications Relay Service program is currently assessed on a connections-based methodology that operates efficiently. While there is certainly merit to this proposal, the MoPSC recommends the Commission open unique dockets in order to more fully investigate the idiosyncrasies of each program.

The NPRM also requested comments on three specific assessment contribution approaches. The first proposed approach (referred to in the Staff Study as Projected Assessments Under Proposal 1 – Connection-Based Methodology) is a connections-based methodology with a mandatory minimum obligation. In addition to the general connection-based issues addressed above, the MoPSC recommends the Commission carefully consider the impact of basing the minimum contribution requirement on all interstate revenues instead of all end-user interstate revenue, as is the current practice. In the NPRM, the Commission recognizes many problems with an approach that bases the minimum contribution on all interstate revenues. The Commission acknowledges that this approach may lead to a double counting of revenues. In the Universal Service Order, the Commission exempted wholesale revenues from the contribution base because of competitive disadvantages[3]. The MoPSC does not see a need to change the current practice of basing contributions on end-user revenues. It appears as though this proposed change creates potential competitive neutrality issues. Further, it does not appear that there have been any significant changes to necessitate another review of this practice.

The second approach in the NPRM (referred to as Projected Assessments Under Proposal 2 – Connection-Based Methodology in the Staff Study), proposes a splitting of connection-based contributions between switched transport and access providers. The MoPSC suggests this is a significant departure from current public policy. Assessments would not distinguish between residential and business customers, but would only be based on capacity. Not distinguishing assessments between residential and business customers leads to a much higher share of the fund being shouldered by residential customers. The MoPSC has serious concerns about a change of this magnitude, its potential inconsistency with current Universal Service goals and its impact on basic local rates.

In the NPRM, the third approach (referred to as Projected Assessments under Proposal 3 – Telephone Number-Based Methodology in the Staff Study) is a telephone number based assessment. The Commission seeks comment as to whether the proposal might encourage public policy goals such as number conservation and the optimization of existing telephone number resources. Recognizing that the MoPSC is not in a position to address unique situations, such as how the assessment will be applied to multi-line business services, dial-around services and 800 or 900 based connections, this seems like the easiest proposal to administer and track since providers would be assessed on the basis of telephone numbers assigned to end users, while assessing special access and private lines that do not have assigned numbers on the basis of the capacity of those end-user connections. However, the NPRM discusses an option whereby carriers not

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[3] Id at paras. 843-47

participating in 1,000 block number pooling would be assessed at a lower rate than carriers participating in pooling. Missouri is a state where pooling has been successfully implemented throughout the state. To encourage the goals of number conservation, the MoPSC suggests that it is counter-intuitive to assess those carriers not participating in pooling a lower assessment than those carriers that are participating in pooling. However, the MoPSC recognizes there may be areas throughout the country where number pooling is not feasible. Therefore, it may be appropriate to allow exemptions to this requirement in certain circumstances.

In summary, the MoPSC recommends any changes to the current contributions methodology should be made in a manner that is non-discriminatory, competitively neutral, and easily administrable. By maintaining these goals when adopting any modifications to the contribution methodology, the Commission should be able to ensure the continued viability of universal service as the telecommunications marketplace continues to develop.

Finally, the MoPSC acknowledges there are other initiatives that address issues related to universal service funding, eligible telecommunications carrier designations and the portability of funding. Any action as a result of those initiatives may impact the assessment contribution methodologies discussed in this NPRM.

Respectfully submitted,

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